

41-3-402. Payoff of liens on motor vehicles traded in.

(1) If a dealer takes a trade-in from a retail customer as part of the sale or lease of a motor vehicle and there is an outstanding loan balance owing on the trade-in, then the dealer:

(a) within 21 calendar days of the date of sale or lease, or within 15 calendar days of receiving payment in full for the motor vehicle it sold, whichever date is earlier, shall remit payment to the lienholder sufficient to pay off the lien on the traded in motor vehicle, unless the underlying contract of sale or lease contract has been rescinded before expiration of the 21 days; and

(b) shall remit payment to the lienholder sufficient to pay off the lien on the traded in motor vehicle prior to selling the motor vehicle unless Subsection (2) is complied with.

(2) (a) A dealer shall, at the time of sale of a motor vehicle with a trade-in, notify in writing the person trading in the vehicle that the person remains responsible for any unpaid loan, lease, or other obligation related to the vehicle being traded in.

(b) The person trading in the vehicle must separately acknowledge receipt of the notice and acknowledge in writing the person's continuing obligation related to the vehicle being traded in.

(3) The notice and acknowledgment required under Subsection (2) may be combined with an authorization for payoff and shall contain the following:

(a) the customer's name;

(b) the customer's address;

(c) the dealer's name;

(d) the dealer's address;

(e) notice to the customer that the motor vehicle the customer is trading in is subject to an unpaid loan, lease, or other obligation;

(f) notice to the customer that the customer remains responsible for the unpaid loan, lease, or other obligation despite the trade-in of the motor vehicle; and

(g) acknowledgment by signature of the customer that the customer remains responsible for payment of the unpaid loan, lease, or other obligation.

(4) (a) A dealer shall, within seven calendar days of the date of a trade-in, notify a lienholder on the motor vehicle that the vehicle has been traded in.

(b) The notice under Subsection (4)(a) is not required if the lien is fully satisfied within seven calendar days of the date of a trade-in.

(5) The notice to the lienholder required by Subsection (4) may be combined with an authorization for payoff or a notice to the person trading in the motor vehicle subject to the lien and shall contain the following:

(a) notice that a motor vehicle subject to the lienholder's lien has been traded in;

(b) notice that the person trading in the motor vehicle subject to the lien has been provided with a notice as required by Subsection (3);

(c) the date the motor vehicle was traded in; and

(d) (i) a statement that payment for the lien accompanies the notice; or

(ii) a statement that payment will be made within the time frame required under Subsection (1).

(6) A lienholder shall deliver to the dealer a properly executed title that releases the lien within nine calendar days after the day on which the funds are received if the

lienholder:

(a) has possession of the title for the motor vehicle; and

(b) has been paid in full.

(7) (a) A lienholder who does not have possession of the title but has its account paid in full by a dealer shall provide the dealer with a written statement that the lienholder no longer claims a lien against the motor vehicle.

(b) The statement described in Subsection (7)(a) shall be provided within the time limit required by Subsection (6).

(8) If the final day for performing an act under this section falls on a Saturday, Sunday, or a legal holiday, then the time for performance is extended to the immediately following business day.

(9) A dealer's failure to comply with the provisions of this section subjects the dealer to the sanctions set forth in Section 41-3-701.

(10) A person who trades in a motor vehicle to a dealer and who thereafter sustains loss or damage as a result of a dealer's failure to pay off a properly recorded lien on the traded in motor vehicle within the time specified by Subsection (1), may bring an action against the offending dealer to recover damages proximately caused by the dealer's failure to comply with the provisions of this section, together with costs and reasonable attorney fees.

Amended by Chapter 342, 2010 General Session